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PART IV.

Legislative Measures and Rules thereunder.

NOTIFICATIONS.

No. Rl. 2910—L. C. Bangalore, dated 18th November 1932.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918, is published for general information with the statement of objects and reasons.

By Order,
C. SUBRAHMANYA AIYAR,
Secretary, Legislative Council.

A Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918.

Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation VII of 1918, as amended by Regulation V of 1929; It is hereby enacted as follows:

This Regulation may be called the Mysore Co-operative Societies (Amended) Regulation, 193 .

Amendment of section 2.

1. In section 2, insert the following as definition (d) and renumber definitions (d), (e), (f) and (g) as (e), (f), (g) and (h) respectively :—

(d) "financing bank" means a registered society the main object of which is to lend money to other registered societies;

Substitution of a new section for section 13.

2. Substitute the following for section 13 :—

(1) No member of any registered society shall have more than one vote in the affairs of the society provided that in the case of an equality of votes, the Chairman shall have a casting vote.

(2) A registered society which has invested any part of its funds in the shares of another society, may appoint any of its members not disqualified for appointment under any rules prescribed in that behalf to vote in the affairs of such other society.

Amendment of section 17.

3. Delete the words 'inspection and enquiry' from the marginal heading of section 17.

After the words 'if any' in line 2 of sub-section 2 of section 17, insert the following :—

"the verification of cash balance and securities."

Substitute the following for sub-section (3) :—

(3) "The Registrar or the person authorised by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof."

(4) "Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him under sub-section (1) may require."

4. Substitute 'Inquiry and inspection' for the heading 'Inspection of affairs' above section 35.

Amendment of section 35.

Delete the words "on the request of the Deputy Commissioner or" in line 2 of sub-section (1) of section 35.

Substitute the following for sub-section (2) of section 35 :—

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers; namely—

(a) He shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(b) He may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(c) (i) He may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him. If the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself.

(ii) Any meeting called under clause (i) shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws.

(iii) When an enquiry is made under this section, the Registrar shall communicate the result of the enquiry to the financing bank, if any, to which the society is indebted.

5. Substitute the following for section 36 : Substitution of a new section for section 36.

Inspection of books by Registrar.

(1) The Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorised by him in this behalf by a general or special order in writing to inspect the books of the society and the Registrar or the person so authorised shall have all the powers of the Registrar when holding an enquiry under section 35.

(2) No inspection shall be made or directed under sub-section (1) unless the creditor—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time ; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) When an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor and to the financing bank, if any, to which the society is indebted.

Addition of a new section 36-A.

6. Insert the following as section 36-A.

Inspection of books by financing bank.

A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

Amendment of section 37.

7. Add the words "and inspection" to the marginal heading of section 37.

Insert the words "after giving the parties an opportunity to be heard" after the word 'may' in line 2 of section 37.

Add the following at the end of section 37 :

"Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 36-A by the financing bank."

Addition of a new section 38-A.

8. Introduce the following as section 38-A.—

Supersession of Committee of Society.

38-A. (1) If, in the opinion of the Registrar, the committee of any registered society is not functioning properly, he may, after giving an opportunity to the committee to state its objections, if any, by order in writing, dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding two years. The period specified in such order may, at the discretion of the Registrar, be extended from time to time, provided that such order shall not remain in force for more than four years in the aggregate.

(2) The person or persons so appointed shall have power, subject to the control of the Registrar, to recover the assets and discharge the liabilities of the society and take such action as may be required in its interests.

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and other costs, if any, incurred in the management of the society, shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the by-law of the society.

(5) Before taking action under sub-section (1) in respect of any society, the Registrar shall, if the society is indebted to a financing bank, consult such bank regarding such action and the provision to be made for the management of the affairs of the society.

(6) Nothing in this section shall be deemed to affect the powers of the Registrar to cancel the registration of the Society under section 39.

Amendment of section 42.

9. Substitute the following for sub-section (1) of section 42:—

42 (1) Where the Registrar has passed an order under section 39 or section 40 for the winding up of a co-operative society, he may forthwith appoint a competent person to be liquidator and fix his remuneration and such person, notwithstanding anything in section 39 relating to the time when the order for winding up shall take effect, shall have power to take immediate possession of all assets belonging to the society and of all books, records and other documents pertaining to the business thereof and to carry on the business of the society so far as may be necessary for the beneficial winding up of the same.

Insert the following words "as soon as the order of winding up takes effect" after the word "shall" in line 2 of sub-section (2) of section 42.

Delete sub-section (3) of section 42 and re-number sub-sections (4), (5) and (6) as (3), (4) and (5) respectively.

Addition of new sections 42-A and 42-B.

10. Introduce the following as sections 42-A and 42-B.

Surcharge and Attachment.

Surcharge.

42-A. (1) When in the course of an audit under section 35 or an inspection under section 36 or the winding up of a society, it appears that any person who has taken part in the organization or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the committee or liquidator or of any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the Registrar thinks just.

(2) The order of the Registrar under sub-section (1) shall be final unless it is set aside by the District Court having jurisdiction over the area in which the headquarters of the society are situated on application made by the party aggrieved within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Deputy Commissioner by the Registrar in the same manner as arrears of Land Revenue.

(4) This section shall apply notwithstanding such person or officer may have incurred criminal liability by his act.

Attachment of property.

42-B. Where the Registrar is satisfied on the application of the liquidator or otherwise that any person with intent to defeat or delay the execution of any order that may be passed against him under clause (*b*) of sub-section (3) of section 42 or section 42 A.—

(*a*) is about to dispose of the whole or any part of his property ; or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof

as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court.

11. Introduce the following as section 43-A. Addition of a new section 43 A.

Arbitration.

43-A. (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises :— Disputes.

(*a*) among members, past members and persons claiming through members, past members and deceased members, or

(*b*) between a member, past member or person claiming through a member, past member, or deceased member, and the society, its committee or any officer, agent or servant of the society, or

(*c*) between the society or its committee and any officer, agent or servant of the society, or

(*d*) between the society and any other registered society,

such dispute shall be referred to the Registrar for decision.

Explanation.—A claim by a registered society for any debt or demand due to it from a member, past member, or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not, is a dispute touching the business of the society within the meaning of this sub-section.

(2) The Registrar may, on receipt of such reference

(*a*) decide the dispute himself, or

(*b*) subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators.

(3) Subject to such rules as may be prescribed, the Registrar may withdraw any reference referred under clause (*b*) of sub-section (2) and deal with it in the manner provided in the said sub-section.

(4) Where the Registrar is satisfied that a party to any reference made to him under sub-section (1), with intent to defeat or delay the execution of any decision that may be passed thereon—

(*a*) is about to dispose of the whole or any part of his property, or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary, and such attachment shall have the same effect as if it had been made by a competent civil court, provided, however, that if during the continuance of the conditional attachment, the party furnishes adequate security the attachment so placed shall be withdrawn.

(5) The Registrar may, of his own motion or on the application of a party to a reference, revise any decision thereon by the arbitrator or arbitrators to whom it was referred.

(6) (*a*) Any decision passed by the Registrar under clause (*a*) of sub-section (2) or under sub-section (5) shall be final and shall not be called in question in any civil or revenue court.

(*b*) any decision that may be passed by the arbitrator or arbitrators to whom a reference is referred shall, save as otherwise provided in sub-section (5), be final and shall not be called in question in any civil or revenue court.

Addition of a new Section 43-B.

12. Introduce the following as section 43-B.

Money how recovered.

(1) Every order passed by a liquidator under section 42 or by the Registrar or his nominee or arbitrators on disputes referred to him or them under section 43-A shall, if not carried out, be executed—

(*a*) on a certificate signed by the Registrar or a liquidator, by any civil court in the same manner as a decree of such court, or

(*b*) according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the Deputy Commissioner and shall be accompanied by a certificate signed by the Registrar or by an Assistant Registrar to whom the said power has been delegated by the Registrar.

(2) When the property attached in execution of an order referred to in sub-section (1) cannot be sold for want of buyers, the same may be handed over to a registered society with the previous consent of the Registrar on such terms and conditions as may be agreed upon between the Deputy Commissioner and the said society.

13. Introduce the following as sections 43-C., 43-D., 43-E. and 43-F. — Addition of new Sections 43-C., 43-D., 43-E., and 43-F.

OFFENCES AND PENALTIES.

43-C. It shall be an offence under the Regulation if— — Offences.

(*a*) a registered society or an officer or member thereof, wilfully makes a false return, furnishes false information; or

(*b*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Regulation or does not furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Regulation.

43-D. Any member or past member or the nominee, heir or legal representative of a deceased member contravening the provisions of section 19 by fraudulently disposing of any property in respect of which the society is entitled to claim priority under that section or doing any other act to the prejudice of such claim, shall be punishable with fine not exceeding two hundred rupees. — Punishment for disposing of property in contravention of Section 19.

43-E. Any registered society or any officer or member thereof or any other person guilty of an offence under this Regulation for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees. — Punishment for offences not otherwise provided for.

43-F. (1) No court inferior to that of a magistrate of the first class shall try any offence under this Regulation. — Cognisance of offences.

(2) Every offence under this Regulation shall, for the purposes of the Code of Criminal Procedure, be deemed to be non-cognisable.

(3) No prosecution shall be instituted under this Regulation without the previous sanction of the Registrar. Such sanction shall not be given without giving the party concerned an opportunity to be heard.

14. Introduce the following as section 43-G:— — Addition of a new section 43-G.

43-G. The Government or the Registrar may call for and examine the record of any enquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the — Power of Government and Registrar to call for proceedings and to pass orders thereon.

proceedings of such officer. If in any case it shall appear to the Government or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, the Government or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit.

Amendment of section 44.

15. For clause (*l*) of sub-section (2) of section 44, substitute the following :—

(*e*) Provide for—

(*i*) the appointment of an arbitrator or arbitrators to decide disputes;

(*ii*) the procedure to be followed in proceedings before the Registrar, arbitrator, or arbitrators, including the appointment of a guardian for a party to the dispute who is a minor, or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests;

(*iii*) the levy of the expenses incidental to such proceedings; and

(*iv*) the enforcement of the decisions or awards in such proceedings.

Amendment of section 52.

16. Substitute the following for sub-section (1) of section 52.—

52. "Co-operative Land Mortgage Bank" or "Bank" means a Co-operative Bank or society formed primarily for granting loans either directly by itself or through other societies affiliated to it on the mortgage of agricultural land for the liquidation of prior debts of agriculturists or for the improvement or better cultivation of agricultural land.

Delete sub-section (2) and re-number sub-section (3) as sub-section (2) of the same section.

Amendment of section 53.

17. Delete clauses (*a*) and (*b*) of section 53.

Delete the words "with the sanction of Government" and "the Board of Supervision" in clause (*o*) of the same section.

Amendment of section 54.

18. For the words "one member" in line 5 of section 54, substitute "two members."

Delete the words "and one member to the Board of Supervision" in line 6 of section 54.

Amendment of section 55.

19. Delete the words "and of the Board of Supervision" in lines 3 and 4 of section 55.

20. In sub-section (2) of section 58, delete the words "for the redemption of subsisting mortgages or for the liquidation of other prior debts" in lines 1 and 2; Amendment of section 58.

substitute "any" for "either" in line 4, and

for the figure "2" in line 5, substitute "1 (a), (b) and (c)."

21. Delete clause (a) and the words "and the Board of Supervision" in clause (d) of section 66. Amendment of section 66.

Substitute the following for clause (c) of section 66:—

"The mutual rights and obligations of primary Land Mortgage Banks and Central Land Mortgage Banks which conduct their business through the former."

Re-number clauses (b) (c) and (d) as clauses (a), (b) and (c).

22. In section 67, delete the words "and Local Land Mortgage Societies." Amendment of section 67.

Statement of Objects and Reasons.

The existing law in Mysore is contained in the Mysore Co-operative Regulation, VII of 1918, which is based on the Government of India Act of 1912 and in Regulation V of 1929. As a result of the experience gained so far in the working of the Regulation, it is considered necessary to amend the law and make suitable additions and alterations in certain respects. The changes proposed are specified below:—

The main function of some of the Co-operative Banks has been to finance Co-operative Societies and such banks have naturally an interest in the efficient administration of the Societies financed by them. Under the existing Regulation, such Banks have no power to inspect the accounts of their constituent Societies. It is therefore considered necessary to define such Banks and to empower them to inspect the accounts of the Societies indebted to them. Section 2 and 36 A.

In respect of Voting by members of Societies, the existing Regulation permits plurality of Votes for members in the case of limited liability Societies if the bye-laws provide for the same, while such plurality of Votes is not permissible in the case of unlimited liability Societies. Plurality of Votes being opposed to the well recognised principle of co-operation *viz.*, "one man, one Vote," and Voting by proxy being undersirable, it is proposed to New Section 13.

amend Section 13 on the lines of the provisions contained in the Bombay and Burma Acts.

Section 17. The existing Statutory requirements for the audit of Co-operative Societies are contained in Section 17 of the Regulation. Experience has shown that in the interests of good management and proper audit of the Societies, it is necessary to provide for verification of cash balances and securities held by Societies, and for power to summon any officer or member of the Society to furnish information or to produce the books, etc., required for audit. It is therefore proposed to alter clauses (2) and (3) of Section 17 and add a new clause (4) under that Section. The amendments proposed in this respect are similar to the provisions made in the Bombay and Burma Acts.

Section 35. It has been represented that during inspections and enquiries held by Departmental Officers the books, accounts and other records are not readily made available and there is no provision in the existing law either to enforce the production of documents, books, etc., or to examine witnesses, on oaths during enquiry. It may also be necessary for the officer to call for an emergent or general meeting for the purposes of enquiry.

It is therefore proposed to substitute a new Section for Section 35 by adopting the provisions contained in Section 38 of the Madras Act.

Section 36. Inspection under Section 36 is now obligatory and it is found expedient to make it permissible and hence the change proposed to be introduced. Audit, enquiry and inspections are separate matters and it is desirable to make independent and complete provisions in regard to them as in the latest Madras Act. This partly accounts for the changes proposed in Section 36.

Section 37. In view of the facilities to be afforded to financing banks, it is proposed to insert a clause at the end of Section 37.

Section 38 A. In many cases it is found that the Committees of management do not perform their functions properly and the interests of the Societies suffer by their negligence, or by dishonest handling of the funds of societies by them. The general bodies do not often take the trouble to appoint new committees. The cancellation of registration of such societies would be too drastic a course of action to be taken. It is therefore desirable to provide, as in the Madras law, for the temporary supersession of committees

for reducing the affairs of the societies to order and for the subsequent restoration of their management to new committees. A new Section 38-A has accordingly been inserted.

Section 42 (1)

It is found by experience that the liquidation proceedings take an unusually long time specially when an appeal has been preferred. The amendment proposed in Section 42 (1) follows the provisions of Section 47 of the Burma Act of 1927 and is intended to enable the liquidator to take charge of the properties and the business of the Society when an order of winding up is passed, even though it may be under appeal and may not have taken effect. It is formally provided also that the Registrar may fix the remuneration of the liquidator.

Section 42 (3)

Sub-section (3) is omitted in view of the general provision made for this purpose elsewhere.

(New) Section 42. A.

Emergent action will be necessary to effect recoveries of misappropriated moneys from delinquent promoters, managers and officers, etc., of Societies. Otherwise recoveries of such amounts would be impossible much to the detriment of the Societies. It is therefore proposed to include a new section on surcharge as in Section 49 of the Madras Act, to empower the Registrar to take prompt action in emergent cases.

It is also necessary to empower the Registrar to direct the attachment of property to enforce his surcharge orders and with this end in view another new Section 42-B has been inserted on the lines of Section 50 of the Madras Act.

Arbitration.

(New) Section 43. A.

The powers of the Registrar and arbitrators in respect of suits by and against co-operative societies are now prescribed by rules issued under Section 44 (1) of the Regulation. But some doubt has been raised as to the validity of these rules in so far as they purport to authorise the Registrar to refer the parties to a Civil Court. It is therefore desirable that jurisdiction in such cases should be defined in the Regulation itself. New section 43. A is accordingly inserted on the lines of Section 51 of the Madras Act.

43 B.

Provision for enforcing the execution of the orders passed under the preceding section will be necessary and

accordingly a new Section 43B is inserted and follows Section 59 of the Bombay Act.

43 C. D. E. The submission of false returns, furnishing false information, omission to furnish information, disobeying summons and requisitions and disposal of property in respect of which a society is entitled to claim priority are not now declared to be offences under the Co-operative Regulation and this has led to considerable difficulty and laxity in properly administering the provisions of the law. It is, therefore, proposed to declare these acts of omission and commission as offences punishable with fine.

New Sections 43 C and D follow Sections 52 and 53 of the Madras Act and the provisions of Section 61 of the Bombay Act have been adopted as Section 43 E.

43 F. The acts of commission and omission having been declared offences, it would be necessary to define the courts which should take cognizance of offences under the Act and it is, therefore, proposed to adopt provision similar to Section 63 of the Bombay Act.

43 G. The Registrar has brought to notice that under the existing law he has no powers even to call for and examine the records of his subordinate officers though subordinate authorities should have committed serious mistakes in administering the provisions of the law, and has suggested that revisional powers are necessary. With a view to reserve powers of revision to both Government and the Registrar to interfere in case in which there is justification for their interference, it is proposed to adopt a new section 43 G closely following Section 57 of the Madras Act.

Section 44. The change proposed in Section 44 is consequential on the proposed enactment of a separate Section 43 A regarding suits by and against societies.

Section 52 (1), and 58 (2) It is found that the existing restriction that loan for improvement of lands can only be granted to persons to whom loans have been given for liquidation of prior debts, detracts from the usefulness of the Land Mortgage Bank. If a person can borrow from a Land Mortgage Bank for repaying a loan contracted for improving his land, there is no reason why he should not be permitted to borrow from the Bank itself for the same purpose. It is accordingly proposed to amend the law so as to permit of the grant of loans by the Land Mortgage Bank for land improvement

even though no loans have been granted for the discharge of prior debts (*vide* also Section 58 (2)).

The term "Co-operative Land Mortgage Bank" or "Bank" has been defined but in view of the distinction made in Sections 52 (2) and 66 (c) between the "Co-operative Land Mortgage Bank" and the "Local Land Mortgage Societies," it is considered that the term "Bank" should be taken only to mean the Central Land Mortgage Bank, and that the provisions of Sections 59 to 64 (procedure for the Bank to recover its dues from defaulting members) relating to Co-operative Land Mortgage Bank or Bank cannot be made applicable to primary Societies also. Section 52 (2). ,, 66, 67

In order to bring primary Societies within the scope of the sections so as to enable them to take prompt and effective steps for recovery of dues from defaulting members, it is proposed to do away with the above mentioned distinction by amending the definition of the term so as to include all Co-operative Land Mortgage Societies.

The provision made in the Regulation for a Board of Supervision for the Land Mortgage Bank is considered unncessary especially as there is a Board of Management on which the members of the Bank, the Debenture holders and the Government are all represented. It is, therefore, proposed that the provision for the creation of a Board of Supervision and all references to this Board in the Regulation may be deleted (*vide* 53 (a)53 (o) 54,55, and 66 (a)). Section 53 (a).

The restriction in the existing law fixing a limit of 5 per cent for the Land Mortgage Bank's dividend is considered too low to attract shareholders other than prospective borrowers. In the existing Co-operative Regulation, there is a general provision for restricting dividends payable by all Co-operative institutions to such maximum rates as may be fixed by Government. It is considered that the rate of dividends fixed in general for all Co-operative institutions should apply to the Land Mortgage institutions also and that the existing restriction should be removed. Section 53 (b).

The bye-laws of the Land Mortgage Bank provide for the nomination of the President by Government. The existing law empowers Government to nominate one member to the Committee of Management so long as interest on any loan raised by the bank is guaranteed by Section 54.

Government or contributions of any kind are made by Government towards the working expenses of the Bank. It is desirable that Government should have power to nominate another person, preferably an officer of Government to safeguard their interest. It is, therefore, proposed to empower Government to nominate two members of the committee instead of only one.

Section 55. *Vide* Section 53 (a) *supra*

Section 58. *Vide* Section 52 (1) *supra*

Section 66 (c). *Vide* Section 52 (2) *supra*

Section 67. *Vide* Section 52 (2) *supra*